

From: Trujillo, Matthew@BCDC Matthew.Trujillo@bcdcc.ca.gov
Subject: Re: Response to Your Implementation Plan and Rescheduling of the BCDC Enforcement Committee Hearing
Date: January 19, 2018 at 10:29 AM
To: ncra.mstogner@sbcglobal.net
Cc: David Anderson DAnderson@are-corp.com, Bowers, John@BCDC John.Bowers@bcdcc.ca.gov
Bcc: Zeppetello, Marc@BCDC marc.zeppetello@bcdcc.ca.gov, McCrea, Brad@BCDC brad.mccrea@bcdcc.ca.gov, Klein, Adrienne@BCDC adrienne.klein@bcdcc.ca.gov

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Dear Mr. Stogner,

On January 10, 2018, I informed you via e-mail that BCDC staff is not willing or able to accept the action plan that NCRA submitted on November 22, 2017, because it is lacking in substantial detail and scope. I concluded the e-mail with an invitation to work with us to negotiate the terms of a proposed stipulated order that would include a commitment from NCRA to: a) conduct a more rigorous survey of the site than has been performed thus far in order to craft a comprehensive work plan for the remediation of the site and stabilization of the road, b) seek and obtain a BCDC permit, among others, to carry out all the work necessary to secure the road, retaining wall, and culvert and ensure that these structures will not pose any future threat of harm to the marsh, slough, shoreline band or bay from future wash-outs, and c) pay a civil penalty.

Having received no response to my e-mail, I am following up with you today in a final attempt to reach out and encourage you to pursue a stipulated order. If we do not hear back from you soon, we will proceed with preparing a Cease and Desist and Civil Penalty Order to present to the Commission's Enforcement Committee at a hearing which we have tentatively scheduled for February 15, 2018, depending on the Commissioners' availability.

Best Regards,

Matthew Trujillo
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From: Trujillo, Matthew@BCDC
Sent: Wednesday, January 10, 2018 9:14:31 AM
To: ncra.mstogner@sbcglobal.net
Cc: David Anderson; FMansourian@sonomamarintrain.org; Klein, Adrienne@BCDC; Bowers, John@BCDC
Subject: Response to Your Implementation Plan and Rescheduling of the BCDC Enforcement Committee Hearing

Dear Mr. Stogner,

On November 22, 2017, NCRA submitted what staff finds to be an underdeveloped plan to remove, "gravel and any other unnatural material from the slough to the extent necessary to remediate the damages wrought on the Beattie Marsh and the slough that feeds it."

The plan is substantially lacking in detail and scope. It consists of a single page with no indication

of the preparer, a scant-to-negligible description of the site-survey methodology, no description of the data collected or used, and no analysis. The lack of these characteristics makes it impossible for staff to assess the rigor of the survey and, therefore, to approve the plan.

NCRA is proposing to manually excavate 10 to 15 cubic yards of material to the “natural flow line elevation,” which is an undefined term, in an approximately 55-square-foot area adjacent to the culvert at Hunters Club Road. In staff’s view, the plan fails to provide a comprehensive assessment of the extent of the gravel and other material deposited in the Bay on both sides of the road. Whereas, in July 2017, I observed road debris as far approximately 100 feet from the road, we believe that the debris field may extend much further bayward of the road than is represented by NCRA. Furthermore, the plan fails to provide any assessment of the effects of the debris on the natural characteristics and dynamics of the marsh, slough or bay; nor does it contemplate further damage and debris deposition as a result of ensuing and future flood and storm water events. Thus, staff intends to recommend that the Commission include in its Cease and Desist and Civil Penalty Order a requirement that NCRA hire a qualified professional to conduct comprehensive survey of the debris field and the impacts to the habitat and hydrology of, but not limited to, the slough and the marsh.

The Order will also: 1) require NCRA to prepare and implement a work plan (as guided by results of the comprehensive the survey mentioned above) to remove the appropriate road debris from the slough, marsh, shoreline band, and bay, as needed; 2) require NCRA to apply for a permit from BCDP, as well as any other agency with relevant jurisdiction, to conduct work necessary to secure the road, retaining wall, and culvert and ensure that these structures will not pose any future threat of harm to the marsh, slough, shoreline band or bay from future wash-outs; and 3) impose a civil penalty.

To this end, we require additional time to prepare for the hearing. So, the public hearing that staff had planned to schedule for this matter on January 18, 2018 will be rescheduled for a date in either February or March (i.e., 2/1, 2/15, 3/1 or 3/15), depending on the Commissioners’ availability.

Finally, if NCRA will agree to conduct the survey and prepare and implement the work plan outlined above, we would like to work with you in advance of the Enforcement Committee hearing in an effort to negotiate terms of a proposed stipulated order that we could jointly present to the Committee at the hearing. Otherwise, please contact me if you have any questions or concerns.

Best Regards,

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